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February 21, 2017

VIA ELECTRONIC FILING & HAND DELIVERED
CONFIDENTIAL VERSION

Ms. Jocelyn Boyd, Chief Clerk/Administrator
Public Service Commission of South Carolina
Synergy Business Park, Saluda Building
101 Executive Center Drive
Columbia, SC 29210

Re: Frederick Howard v. Duke Energy Carolinas, LLC
Docket No. 2017-34-E

Dear Ms. Boyd:

Enclosed for filing please find Duke Energy Carolinas, LLC's Motion to Dismiss the Howard Complaint and Request to Hold Filing Deadlines for all parties and Hearing Date in Abeyance Pending Resolution of the Motion. The Company moves that Exhibit C of the enclosed motion be treated and maintained as confidential pursuant to Order No. 2005-226, Order Requiring Designation of Confidential Materials.

Exhibit C contains confidential customer information, including account number and electricity usage data personal to Frederick Howard that must be maintained as confidential in accordance with the Company's Privacy Policy. Therefore, we request that the Commission grant the request for confidential treatment pursuant to 26 SC Regs. 103-804(S)(2). Exhibit C is filed in a separate envelope and marked confidential.

By copy of this letter we are serving the Office of Regulatory Staff with the Confidential Version via hand delivery and the other parties of record in this proceeding with the same via U.S. Mail. If you have any questions, please contact me.

Yours truly,

Frank R. Ellerbe, III

FRE:tch
Enclosures
cc/enc:

David Stark, Hearing Examiner (via email)
Frederick Howard (via email and US Mail)
Shannon B. Hudson, Deputy Director Legal Services (via email & hand delivery)
Heather S. Smith, Deputy General Counsel (via email)
Rebecca J. Dulin, Senior Counsel (via email)
Kim H. Smith, Regulatory Affairs Manager (via email)

Docket No. 2017-34-E

**DUKE ENERGY CAROLINAS, LLC
MOTION TO DISMISS**

Complainant Frederick Howard has been a customer of Duke Energy Carolinas since 2011. Service was established for Mr. Howard in his account at 140 Wickersham Way, Lot #25, Easley, South Carolina on September 29, 2011. See Kim Smith Affidavit attached as Exhibit A. (“Smith Affidavit”). Mr. Howard’s complaint indicates he is unable to timely pay his most recent deferred payment arrangement and again seeks to renegotiate future payment arrangements.

Mr. Howard has been billed each month pursuant to the Company's rate schedule and its service rules and in accordance with the Commission's Rules and Regulations. A review of the entire billing and payment history shows a consistent pattern of delinquency. See Smith Affidavit, ¶5.

The Company's records show that Mr. Howard's account has not been current since service was established in September of 2011 and he is currently on his 15th payment arrangement since December 2014. Mr. Howard has not satisfied a Deferred Payment Plan since July 2015. From 2012 – 2017 Mr. Howard's account has been scheduled for disconnection 23 times due to nonpayment of Deferred Payment Plan but paid the amount necessary to prevent the cut before the disconnection occurred. See Smith Affidavit ¶s 5 and 6.

The Company has been working with Mr. Howard since the account was established to arrange deferred payment plans as required by S.C. Code Ann. Regulation 103-352(c). However, Mr. Howard has been unable to pay the amounts due under the deferred payment plans. DEC has worked diligently to assist Mr. Howard with payment arrangements, but he continues to carry a past due balance. Mr. Howard currently owes \$760.59. His meter was read on February 6 with new charges of \$197.13 being due on March 6. His account is more than 30 days past due in the amount of \$355.67 and more than 90 days past due in the amount of \$207.79. His payment of \$260.26 was due by 5:00 p.m. on February 6. See Smith Affidavit ¶ 6.

S.C Code Ann Regs. 103-352 requires utilities to offer a payment plan of up to six months that will allow customers to bring their account current. As indicated above, the Company has made numerous deferred payment plans with Mr. Howard. The objective of such plans is to bring the account current so that the customer can maintain a current status going

forward. Even with the deferred payment agreements, Mr. Howard has not been able to keep his account current.

Most recently, in December, 2016, the Company entered into a deferred payment plan with Mr. Howard which, among other requirements, required a payment of \$260.26 by February 6, 2017. That payment was not made. Instead, on January 31, 2017, Mr. Howard filed a complaint with the Commission stating he did not have ability to pay until February 15. Mr. Howard has contacted the Office of Regulatory Staff on several occasions and most recently was told that Duke was unwilling to modify the payments due to previous modifications. See ORS letter, Exhibit B.

ARGUMENT

Duke Energy Carolinas requests that the Complaint be dismissed pursuant to S.C. Code Ann. 58-27-1990. That provision allows the Commission to dismiss a complaint if it determines that “a hearing is not necessary in the public interest or for the protection of substantial rights.” Mr. Howard fails to allege any violation of an applicable statute or regulation with respect to Duke Energy Carolinas’ billing or handling of his account. Mr. Howard’s billing records show that DEC has repeatedly made arrangements with Mr. Howard for deferred payment plans but that Mr. Howard has had a terrible track record of complying with his obligations under the plans. DEC has met its obligations under R. 103-352(c); it should now be allowed to terminate service to Mr. Howard.

S.C. Code Regs. 103-352 outlines the procedures for terminating electric service due to nonpayment. Section 103-352 provides that not less than ten days prior to termination, the electric utility shall mail a notice of termination to the affected customer that includes the total

amount owed, and the date by which the customer must either pay in full the amount outstanding or make satisfactory arrangements for payment by installments. Additionally, not more than three business days prior to termination of service, the electrical utility shall notify the customer by mail that he is subject to termination of service for non-payment. As outlined above, DEC has complied with the notice requirements for disconnection and given Mr. Howard additional time to pay his outstanding balance.

Duke Energy Carolinas requests that the Complaint be dismissed because it fails to allege any violation of an applicable statute or regulation with respect to Duke Energy Carolinas' handling of Mr. Howard's account.

CONCLUSION

DEC has worked diligently to assist Mr. Howard with deferred payment plans, but he has consistently failed to meet his obligations under the plans. There is no allegation that Duke Energy Carolinas violated any applicable statute or regulation in its charges. Therefore, this matter should be dismissed.

WHEREFORE, Duke Energy Carolinas moves the Commission to dismiss the Complaint with prejudice, hold the testimony deadlines for all parties and the hearing in abeyance pending resolution of this motion, and requests such other relief as the Commission deems just and proper.

Dated this 21st day of February, 2017.

Heather Shirley Smith, Deputy General Counsel
Rebecca J. Dulin, Senior Counsel
Duke Energy Carolinas, LLC
40 West Broad St, Suite 690
Greenville, SC 29601
Telephone 864.370.5045
heather.smith@duke-energy.com
rebecca.dulin@duke-energy.com

and

s/Frank R. Ellerbe, III
Frank R. Ellerbe, III, (SC Bar No. 01866)
William H. Jordan (SC Bar No. 76172)
SOWELL GRAY ROBINSON STEPP & LAFFITTE, LLC
Post Office Box 11449
Columbia, South Carolina 29211
Phone: 803-929-1400
fellerbe@sowellgray.com
wjordan@sowellgray.com

Attorneys for Duke Energy Carolinas, LLC

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

Docket No. 2017-34-E

In Re:)	
)	
Frederick C. Howard,)	
)	
Complainant/Petitioner,)	DUKE ENERGY CAROLINAS, LLC
)	MOTION TO DISMISS
)	
v.)	
)	
Duke Energy Carolinas, LLC)	
)	
Defendant/Respondent.)	

EXHIBIT A

AFFIDAVIT OF KIM H. SMITH

**BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA**

Docket No. 2017-34-E

In re:)	
)	
Fredrick C. Howard,)	AFFIDAVIT OF KIM H. SMITH
Complainant/Petitioner,)	
)	
v.)	
)	
Duke Energy Carolinas, LLC,)	
Defendant/Respondent.)	
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PERSONALLY, appeared before me, Kim H. Smith who first being duly sworn did state as follows:

1. My name is Kim H. Smith and I am Regulatory Affairs Manager for Duke Energy Carolinas, LLC ("Duke Energy Carolinas" or "DEC"). I am responsible for directing the proper administration of Duke Energy Carolinas' rate schedules and service regulations and the Public Service Commission of South Carolina's ("Commission") rules and regulations. I am also responsible for the investigation of customer complaints received through the Commission and the Office of Regulatory Staff ("ORS").

2. This affidavit is based upon my personal knowledge and review of documents received and maintained in the ordinary course of business by Duke Energy Carolinas. I am familiar with the records of Duke Energy Carolinas that pertain to the residential account for 140 Wickersham Way, Lot #25, Easley, South Carolina (the "Residence"). I have personally worked on and reviewed the documents and records relating to that account, and as to the following facts, I know them to be true of my own knowledge or I have gained knowledge of them from the business records of Duke Energy Carolinas, which were made at or about the time of the

events, recorded, and which are maintained in the ordinary course of business by Duke Energy Carolinas. If called as a witness, I could and would testify to the same.

3. I assisted our attorneys in preparing Duke Energy Carolinas' Motion for Judgment as a Matter of Law and Memorandum in Support ("Motion"). I have read the Motion and verify that the information contained within the Motion is accurate and true to the best of my knowledge, information, and belief.

4. I have reviewed the billing history and DEC account information for the Residence. Fredrick Howard is the primary account holder listed for the Residence.

5. Mr. Howard established service at the Residence on September 29, 2011. The account has not been current since it was established. DEC has followed the procedures required in S.C. Code Ann. Regulation 103-352(c) and has on 15 occasions offered Mr. Howard a deferred payment plan ("DPP"). Mr. Howard has a track record of failing to meet his obligations under the DPPs: in 2012 the account was scheduled for disconnection due to nonpayment of DPPs on 2 occasions; in 2013 it was scheduled for disconnection due to nonpayment of DPPs 3 times; in 2014 it was scheduled for disconnection due to nonpayment of DPPs 5 times; in 2015 it was scheduled for disconnection for nonpayment of DPPs 7 times; in 2016 it was scheduled for disconnection due to nonpayment of DPPs 3 times; and in 2017 the account has already been scheduled for disconnection for nonpayment of DPPs 3 times.

6. The current status of the account is as follows: the total due is \$760.59; \$207.79 is past due by more than 90 days; an additional \$355.67 is overdue by greater than 30 days; the meter for the Residence was read on February 6th and new charges of \$197.13 will be due March 6th. A payment of \$260.26 under the most recent DPP was due on February 6th but no payment was made.

7. DEC has complied with all of its obligations under Regulation 103-351 and it should be allowed to terminate service to the Residence. Mr. Howard has regularly and routinely failed to meet his obligations under the DPPs.

FURTHER AFFIANT SAYETH NOT.

Dated this 21st day of February, 2017.

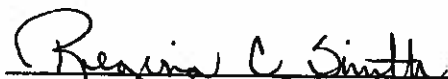
DUKE ENERGY CAROLINAS



Kim H. Smith
Regulatory Affairs Manager

SWORN TO BEFORE ME

This 21st day of February, 2017.



Print Notary Name: Regina C. Smith
Notary Public for Mecklenburg
My Commission Expires: August 12, 2019

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

Docket No. 2017-34-E

In Re:

Frederick C. Howard,

Complainant/Petitioner,

v.

Duke Energy Carolinas, LLC

Defendant/Respondent.

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**DUKE ENERGY CAROLINAS, LLC
MOTION TO DISMISS**

EXHIBIT B

ORS LETTER TO MR. HOWARD

DATED JANUARY 30, 2017

C. DUKES SCOTT
EXECUTIVE DIRECTOR

1401 Main Street, Suite 900
Columbia, SC 29201



NANETTE S. EDWARDS
DEPUTY EXECUTIVE DIRECTOR

Toll Free: 1-800-922-1531
www.regulatorystaff.sc.gov

January 30, 2017

April B. Sharpe
Manager of Consumer Services

Carlos Howard
140 Wickersham Way
Easley, SC 29642

Re: File No. 2017-E-193

Dear Mr. Howard:

This letter provides the results of the South Carolina Office of Regulatory Staff's ("ORS") investigation of the complaint you filed on January 30, 2017, against Duke Energy ("Duke" or "Company"). Your complaint is in reference to a request for payment arrangements to avoid termination of service. In your complaint you advised the ORS that your account is noticed for disconnection for non-payment and requires payment of \$260.26 by February 3, 2017. You request that Duke agree to stop the termination of service scheduled for February 7, 2017 and allow you to pay \$260.26 on February 15, 2017.

The ORS contacted Duke and advised the company of your request. Duke advised that the balance on your account is \$563.46. The account was noticed for disconnection of service if payment of \$260.26 is not paid on February 6, 2017. The company did not agree to an extension to your current arrangement to pay \$260.26 due February 6, 2017.

The company confirmed that you are currently on a payment arrangement that was setup with the ORS' assistance on December 13, 2016. The account at that time had a balance of \$454.00. The deferred payment ("DPP") plan between you and Duke required a \$160.00 down payment and then payments of \$75.80 plus your monthly usage charges for six (6) months. This payment arrangement provides the maximum deferred payment installments per the Public Service Commission's ("PSC") regulations. The company advised there have been numerous changes to your deferred payment arrangement prior to the arrangement setup with the ORS' assistance on December 13, 2016. The Company has advised that they will not change the terms of the current deferred payment arrangement and a payment of \$260.26 must be paid by February 6, 2017 to avoid disconnection of service on February 7, 2017.

Please be advised, you have the right to file a petition and request a hearing before the PSC if you are unable to resolve your complaint by working with the utility or the ORS. To file your

complaint with the PSC, complete the Complaint Form, found on the PSC's website at www.psc.sc.gov.

In addition, please be advised that PSC regulation 103-345 (B) regarding complaints states,

"B. When the ORS has notified the electrical utility that a complaint has been received concerning a specific account, the electrical utility shall refrain from discontinuing the service of that account until the ORS's investigation is completed and the results have been received by the electrical utility. Service shall not be discontinued if the complainant requests in writing a hearing before the commission within fifteen days of the ORS mailing the results of the ORS investigation, along with a copy of regulation 103-345, to the complainant. If the complainant does not file the complaint with the commission within fifteen (15) days, service can be discontinued."

Fifteen days from the date of this letter is February 14, 2017. Please be advised, if a request for a hearing is not filed with the PSC or payment of \$260.26 is not paid to Duke by the above date; the utility may proceed with service termination under the PSC regulations governing utility providers.

If you have any questions, please contact me at 803-737-5267, or via e-mail at twaller@regstaff.sc.gov.

Sincerely,



Takisha Waller, Investigator
Consumer Services
Office of Regulatory Staff

Cc. Duke Energy (via e-mail)

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

Docket No. 2017-34-E

In Re:

Frederick C. Howard,

Complainant/Petitioner,

v.

Duke Energy Carolinas, LLC

Defendant/Respondent.

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**DUKE ENERGY CAROLINAS, LLC
MOTION TO DISMISS**

EXHIBIT C

BILLING AND PAYMENT HISTORY

CONFIDENTIAL, CUSTOMER INFORMATION

FILED UNDER SEAL

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2017-34-E

Frederick C. Howard,

Complainant/Petitioner,

v.

Duke Energy Carolinas, LLC,

Defendant/Respondent.

CERTIFICATE OF SERVICE

This is to certify that I, Toni C. Hawkins, a paralegal with the law firm of SOWELL GRAY ROBINSON STEPP & LAFFITTE, LLC, have this day caused to be served upon the person(s) named below the **Motion to Dismiss on behalf of Duke Energy Carolinas, LLC** in the foregoing matter by placing a copy of same in the U.S. Mail addressed as follows:

Frederick C. Howard
140 Wickersham Way
Easley, SC 29642

Shannon B. Hudson, Esquire
Deputy Director Legal Services
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201

Dated at Columbia, South Carolina this 21st day of February, 2017.